

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

MICHAEL PAUL PATTERSON,

Plaintiff,

vs.

FINGERHUT DIRECT
MARKETING,

Defendant.

CV-12-52 -M-DLC

ORDER

FILED

OCT 16 2013

Clerk, U.S. District Court
District Of Montana
Missoula

United States Magistrate Judge Jeremiah Lynch entered Findings and Recommendation on September 10, 2013. Judge Lynch recommended granting Defendant Bluestem Brands, Inc. d/b/a Fingerhut Direct Marketing's ("Bluestem") motion for summary judgment (Doc. 33), and dismissing this action. (Doc. 37.) Plaintiff did not timely object to the Findings and Recommendation, and so has waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1).

The Court will review the Findings and Recommendation for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Patterson claims that Bluestem accessed his credit report without proper authorization in violation of § 1682(b) of the Fair Credit Reporting Act (“FCRA”). (Doc. 1.) Bluestem moved for summary judgment on the basis that it had the authority to access Patterson’s credit report for the purpose of making him a firm offer of credit. (Doc. 33.)

Patterson failed to timely respond to the motion. However, Judge Lynch conducted a thorough analysis pursuant to the Ninth Circuit’s mandate. *See Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1258 (9th Cir. 2010) (holding that a district court may not grant “summary judgment simply because a party fails to file an opposition or violates a local rule”). Judge Lynch found that the undisputed evidence demonstrates that Bluestem was in full compliance with the FCRA requirements. Accordingly, Judge Lynch determined that Bluestem met its summary judgment burden by showing that since there are no material issues of fact, it is entitled to judgment as a matter of law.

After a review of Judge Lynch’s Findings and Recommendation, I find no clear error. Accordingly,

IT IS ORDERED that Judge Lynch’s Findings and Recommendation (Doc. 37) is adopted in full. Defendant’s motion for summary judgment (Doc. 33) is GRANTED, and Plaintiff’s complaint is DISMISSED.

The Clerk of Court is directed to close this matter and enter judgment for the Defendant pursuant to Rule 58 of the Federal Rules of Civil Procedure.

IT IS FURTHER ORDERED that the docket shall reflect that the Court certifies pursuant to Fed.R.App.P. 24(a)(3)(A) that any appeal of this decision would not be taken in good faith.

Dated this 16th day of October, 2013.



Dana L. Christensen
Dana L. Christensen, Chief Judge
United States District Court